

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA

AUTOSHOP SOLUTIONS, LLC

Plaintiff,

v.

MASTEC NORTH AMERICA, INC., and  
MASTEC NORTH CAROLINA, INC.,

Defendants.

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**NOTICE OF REMOVAL  
(DIVERSITY OF CITIZENSHIP)  
28 U.S.C. § 1446(a)  
Case No. 18-CvS-13869 (Wake County)**

**COMES NOW** MasTec North America, Inc., by and through its counsel in the above-captioned action, and hereby gives notice pursuant to 28 U.S.C. §§ 1441 and 1446(a) that it has removed the action entitled “Autoshop Solutions, LLC v. MasTec North America, Inc., and MasTec North Carolina, Inc.” from the General Court of Justice, Superior Court Division, Wake County, North Carolina, Case No. 18 CvS 13869 (the “State Court Action”), to the United States District Court for the Middle District of North Carolina. A copy of this Notice of Removal is being filed with the Clerk of the General Court of Justice, Superior Court Division, Wake County, North Carolina, in order to effect removal pursuant to 28 U.S.C. § 1446(b). Pursuant to 28 U.S.C. § 1446(d), the State Court Action shall proceed no further unless and until this case is remanded.

**Grounds for Removal**

1. Plaintiff initiated this action on November 8, 2018, by filing its Complaint in the Superior Court of Wake County, North Carolina. This action remains pending in that court.

2. Plaintiff’s action seeks to recover for alleged property and nuisance related damages resulting from the damage or obstruction of a water or sewer line located in Apex, North Carolina. Plaintiff’s Complaint does not allege the specific amount being sought by Plaintiff.

However, prior to this action, Plaintiff claimed damages in excess of \$200,000. (*See* Ex. A.)<sup>1</sup> Accordingly, upon information and belief, the amount in controversy exceeds \$75,000.

3. Plaintiff served the Civil Summons and Complaint upon Defendant MasTec North America, Inc. by serving its registered agent on or after November 8, 2018.

4. Attached hereto as Exhibit B is a copy of all of the pleadings and other papers filed in the State Court Action to date.

5. According to the Complaint, Plaintiff is a North Carolina limited liability company with its principal place of business in Apex, North Carolina.

6. Defendant MasTec North America, Inc. is a company incorporated in Florida with its principal place of business in Florida.

7. The real controversy in the present action is for damages arising from the alleged conduct of Defendant MasTec North America, Inc. (*See* Ex. A.) While the entity named MasTec North Carolina, Inc. is named as a Defendant in this action, this entity was not the entity involved in nor did it have any relationship to the subject incident(s) giving rise to this action. (*See* Ex. A) For this reason, MasTec North Carolina, Inc. is a nominal party with no apparent stake in the controversy between Plaintiff and Defendant MasTec North America, Inc. Therefore, this Court is to disregard the citizenship of the nominal party, MasTec North Carolina, Inc., and rest jurisdiction only upon the citizenship of Plaintiff and Defendant MasTec North America, Inc. *See Navarro Savings Association v. Lee*, 446 U.S. 458, 461 (1980).

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<sup>1</sup> “Ex. A.” refers to the Affidavit of Jamie Kirkman, which is attached and is being filed contemporaneously herewith.

8. This Notice of Removal is being filed within thirty (30) days of the date that the Civil Summons and Complaint were first received by Defendant MasTec North America, Inc., pursuant to 28 U.S.C. § 1446(b)(1).

9. This case is removable under 28 U.S.C. § 1332 (“Diversity of Citizenship”) because there is: (i) complete diversity of citizenship of the real parties to the controversy, and (ii) the amount in controversy, upon information and belief, exceeds the sum or value of \$75,000, exclusive of costs and interest.

16. Because Defendant MasTec North Carolina, Inc., is a nominal party its consent to removal is not required. *See, Hartford Fire Ins. Co. v. Harleyville Mut. Ins. Co.*, 736 F.3d 255, 257 (4<sup>th</sup> Cir. 2013).

17. A copy of this Notice is being provided to all adverse parties and a copy hereof is being filed with the Clerk of Superior Court for Wake County, North Carolina, all in accordance with the provisions of 28 U.S.C. § 1446(d).

WHEREFORE, Defendant MasTec North America, Inc. gives notice of the removal of the above-captioned action from the General Court of Justice, Superior Court Division of Wake County, North Carolina to the United States District Court for the Eastern District of North Carolina.

This the 7<sup>th</sup> day of December, 2018.

GOLDBERG SEGALLA LLP

/s/ Brady A. Yntema  
Brady A. Yntema  
N.C. State Bar #: 25771  
Email: [byntema@goldbergsegalla.com](mailto:byntema@goldbergsegalla.com)  
800 Green Valley Road, Suite 302  
Greensboro, NC 27408  
Phone: 336-419-4900  
Fax: 336-419-4950

*Attorney for Defendant  
MasTec North America, Inc.*

**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing NOTICE OF REMOVAL has been served upon all parties to this action by forwarding a copy thereof by electronic mail and by first-class mail, postage prepaid, addressed to the following:

Paul Stam  
R. Daniel Gibson  
Stam Law Firm, PLLC  
510 W. Williams Street  
Apex, NC 27502  
*Attorneys for Plaintiff*

This the 7<sup>th</sup> day of December, 2018.

GOLDBERG SEGALLA, LLP

/s/ Brady A. Yntema  
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Brady A. Yntema  
N.C. State Bar #: 25771  
Email: [byntema@goldbergsegalla.com](mailto:byntema@goldbergsegalla.com)  
800 Green Valley Road, Suite 302  
Greensboro, NC 27408  
Phone: 336-419-4900  
Fax: 336-419-4950  
*Attorney for Defendant*  
*MasTec North America, Inc.*